



DOCKET NO. 1818.1015-021

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

In re Application of: Jonathan S. Stamler, Eric J. Toone and Richard S. Stack
Application No.: 10/668,667
Filed: September 23, 2003
Confirmation No.: 1238
For: NOVEL POLYMERS FOR DELIVERING NITRIC OXIDE IN VIVO

The owner, Duke University of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent Nos. 5,770,645, 6,232,434, 6,403,759 B2 and 6,673,891 B2. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The terminal disclaimer fee under 37 CFR 1.20(d) is enclosed.

The undersigned is an attorney or agent of record.

October 8 2004

Date

Steven G. Davis
Registration No. 39,652
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

10/13/2004 EAREGAY1 00000017 1066667

01 FC:1814

110.00 (P)